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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,073	04/16/2004	Paul A. Lindberg	83714.86249	9970
24335	7590	11/30/2005		
WARNER NORCROSS & JUDD LLP 900 FIFTH THIRD CENTER 111 LYON STREET, N.W. GRAND RAPIDS, MI 49503-2487				
			EXAMINER OKEZIE, ESTHER O	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/826,073	<b>Applicant(s)</b> LINDBERG, PAUL A.	
	<b>Examiner</b> Esther O. Okezie	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Response to Amendment*

The amendment filed on 9/01/05 and the remarks presented therewith have carefully considered. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-6,13 are rejected under 35 U.S.C. 102(b) as being anticipated by Meinholdt.
2. Re claim 1, Meinholdt discloses a device for lifting/manipulating logs comprising: a first arm (10) having an upper portion, a pivot portion and a lower portion, said upper portion of said first arm and said lower portion of said first arm extending along a common plane; a second arm (11) having an upper portion, a pivot portion and a lower portion, said pivot portion of said first arm pivotally connected to said pivot portion of said second arm, said upper portion of said second arm and said lower portion of said second arm extending along said common plane; wherein at least one of said pivot portion of said first arm and said pivot portion of said second arm is offset from said common plane an amount selected such that said upper portion and said lower portion

Art Unit: 3652

of said first arm and said upper portion and said lower portion of said second arm extend along said common plane (fig 1).

3. Re claim 2, at least a portion of said upper portion of said first arm follows a first radius of curvature having a center on an exterior side of said first arm (fig. 1).

4. Re claim 3, at least a portion of said lower portion of said first arm follows a second radius of curvature having a center on an interior side of said first arm (fig 1).

5. Re claim 4, at least a portion of said upper portion of said second arm follows a third radius of curvature having a center on an exterior side of said second arm and at least a portion of said lower portion of said second arm follows a fourth radius of curvature having a center on an interior side of said second arm (fig 1).

6. Re claim 5, said first arm is pivotally connected to said second arm by a pivot element (12); and wherein said first arm transitions between said first radius of curvature and said second radius of curvature in approximate alignment with said pivot element (fig 1).

7. Re claim 6, a first jaw affixed to said first arm, said jaw extending substantially perpendicular to the longitudinal extent of said first arm (see end hook of arm 10).

8. Re claim 13, a handle (14) is mounted to said first arm (figs 1 and 2).

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 3652

1. Claims 7,8,14-16,19,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meinholdt in view of Eckert.
2. Re claim 7, Meinholdt does not disclose the jaw including a plurality of teeth. Eckert teaches a pipe lifter with teeth (16) oriented around a curve of the jaws (14). It would have been obvious to one of ordinary skill in the art to modify the jaws of Meinholdt to include teeth in order to more suitably secure objects from slipping during transport.
9. Re claim 8, Meinholdt does not disclose the jaw including a plurality of teeth oriented along a curve. Eckert teaches a pipe lifter with teeth (16) oriented around a curve of the jaws (14). It would have been obvious to one of ordinary skill in the art to modify the jaws of Meinholdt as taught by Eckert to include teeth arranged about a curve in order to grasp round objects and more securely retain objects that would slip between linearly arranged teeth.
10. Re claim 14, Meinholdt discloses a device for lifting/manipulating logs comprising: a first arm (10) having an upper portion and a lower portion; a second arm (11) having an upper portion and a lower portion; a pivot joint (12) pivotally interconnecting said first arm and said second arm, said pivot joint configured such that said upper portion and said lower portion of said first arm and said upper portion and said lower portion of said second arm extend through a common plane (fig 1); a first and second shackle (15; figs 1 and 3). Meinholdt does not disclose a lift ring, instead a handle is used to lift the tongs. Eckert discloses a lift ring (19). It would have been

Art Unit: 3652

obvious to one of ordinary skill in the art to modify the tongs of Meinholdt to comprise a lift ring in order for the tongs to be easily lifted by a hoisting hook.

11. Re claim 15, Meinholdt discloses a first jaw affixed to said first arm, said first jaw extending substantially perpendicularly to a longitudinal extent of said first arm; and a second jaw affixed to said second arm, said second jaw extending substantially perpendicularly to a longitudinal extent of said second arm (fig 1).

12. Re claim 16, Meinholdt does not disclose the jaw including a plurality of teeth oriented along a curve. Eckert teaches a pipe lifter with teeth (16) oriented around a curve of the jaws (14). It would have been obvious to one of ordinary skill in the art to modify the jaws of Meinholdt as taught by Eckert to include teeth arranged about a curve in order to grasp round objects and more securely retain objects.

13. Re claim 19, Meinholdt discloses the device of claim 14 wherein each of said first arm and said second arm are somewhat "S"-shaped having a lower portion extending along a radius of curvature opening inwardly and an upper portion extending along a radius of curvature opening outwardly (fig 1).

14. Re claim 21, Meinholdt discloses the device of claim 14 wherein said first arm includes an offset portion and second arm includes an offset portion (13); and wherein said pivot joint includes a pivot pin interconnecting said offset portion of said first arm with said offset portion of said second arm (col. 4, lines 38-41).

Art Unit: 3652

15. Claims 9,10,17,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Meinholdt and Eckert as applied to claims 7 and 8 above, and further in view of Japanese Patent JP 05286682 A.

16. Re claim 9 and 17, Eckert discloses the jaw with one leg (14) extending from the arm of the pipe lifter. Japanese Patent JP 05286682 A discloses the device wherein said jaws are angled having a first leg (8a) and a second leg (11a), said plurality of teeth (12a) being defined in said first leg (fig 6). It would have been obvious to one of ordinary skill in the art to modify the combination of Meinholdt and Eckert to form the jaws in two parts in order to provide a support to reinforce the jaw base. It is unclear whether Japanese Patent JP 05286682 A discloses the jaws as manufactured from iron. However, it would be obvious to one of ordinary skill in the art to manufacture jaws from iron because iron is well know in the art and readily available.

17. Re claim 10 and 18, Meinholdt discloses the arms (10 and 11) moveable between a first fully open position and a second closed position wherein said first jaw and said second jaw are mounted to said first arm and said second arm such that said first leg of said jaw and said first leg of said second jaw extend along a substantially horizontal plane when said arms are in said fully open position (fig 1).

18. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Meinholdt and Eckert, and in view of Japanese Patent JP 05286682 A as applied to claims 11 and 12 above and further in view of Cook. Neither Meinholdt, Eckert or Japanese Patent JP 05286682 A disclose a pair of reinforcing

Art Unit: 3652

plates interconnected between first jaw and said first arm, the reinforcing plates being disposed on opposite sides of said first arm and said reinforcing plates extending between said second leg and said first arm. Cook teaches a material manipulator including first arm webs arranged at acute angles to the lower first arm (24; column 4, lines 3-10; figs 3 and 4). It would have been obvious to one of ordinary skill in the art to add reinforcing plates to the jaws of the combination in order to strengthen the jaws against failing when lifting heavier objects.

19. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Meinholdt and Eckert as applied to claims 14 and 19 above, and further in view of Dickey et al. Meinholdt discloses only one handle (14) shared between both arms. Dickey et al. teaches a device for handling railroad timbers including handles (93 and 95) mounted on both arms. It would have been obvious to one of ordinary skill in the art to modify Meinholdt to include auxiliary handles in order to provide an alternate apparatus for opening the arms in case they are locked.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection described above.

### ***Conclusion***



Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO 11/22/05

 11/22/05  
DEAN J. KRAMER  
PATENT EXAMINER